

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA §
§
vs. § Case No. 4:07cr61
§ (Judge Schell)
JOHN JEFFERY ORTEGA §

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 9, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Tracey Batson.

On July 9, 2007, Defendant was sentenced by the Honorable Marcia A. Crone to twenty-four (24) months' custody followed by three (3) years of supervised release for the offense of Felon in Possession of a Firearm. On December 5, 2008, Defendant completed his period of imprisonment and began service of his supervised term.

On July 23, 2010, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated several mandatory and standard conditions. Violation allegations one, two, four, five, six, and seven were dismissed by the Government. The petition also alleged violation of the following additional mandatory condition: the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as determined by the court.

The petition alleges that Defendant committed the following acts with regard to the

remaining violation: On June 1, 2010, and June 7, 2010, Defendant submitted urine specimens which tested positive for methamphetamine. On June 1, 2010, Defendant admitted in writing to using methamphetamine.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violation.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one day with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 9th day of November, 2010.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE